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Oceans and the law of the sea

Letter dated 15 May 2008 from the Co-Chairpersons of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction addressed to the President of the General Assembly

Pursuant to paragraph 105 of General Assembly resolution 62/215 of 22 December 2007, we were appointed as Co-Chairpersons of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, which was established pursuant to paragraph 73 of resolution 59/24, of 17 November 2004. In accordance with paragraph 91 of resolution 61/222 of 20 December 2006, paragraphs 79 and 80 of resolution 60/30 of 29 November 2005, and as reaffirmed by paragraph 105 of resolution 62/215, the Working Group met at United Nations Headquarters in New York, from 28 April to 2 May 2008.

We have the honour to submit to you the outcome of the meeting, which consists of the attached joint statement of the Co-Chairpersons of the Working Group. It provides a summary of key issues, ideas and proposals raised during the meeting under the various agenda items (see A/AC.276/2) and some concluding remarks based on our assessment of the discussions.

We kindly request that the present letter and the joint statement of the Co-Chairpersons of the Working Group be circulated as a document of the sixty-third session of the General Assembly under the agenda item "Oceans and the law of the sea" in accordance with paragraph 94 of resolution 61/222, which recognized the importance of making the outcomes of the Working Group widely available.

(*Signed*) Juan Manuel **Gómez-Robledo**
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Co-Chairpersons

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Annex

Joint statement of the Co-Chairpersons of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction

1. The Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction held its second meeting in New York, from 28 April to 2 May 2008. The meeting of the Working Group was convened in accordance with paragraph 91 of resolution 61/222 of 20 December 2006 and paragraphs 79 and 80 of resolution 60/30 of 29 November 2005, as reaffirmed by paragraph 105 of resolution 62/215 of 22 December 2007.

2. The following supporting documentation was available to the meeting: (a) report of the Secretary-General on oceans and the law of the sea (A/62/66/Add.2); (b) provisional agenda (A/AC.276/L.1); and (c) draft format and annotated provisional agenda and organization of work (A/AC.276/L.2). The meeting adopted the provisional agenda (A/AC.276/2) and agreed to proceed on the basis of the annotated provisional agenda and organization of work.

3. As indicated in the format for the meeting, the present joint statement of the Co-Chairpersons summarizes key issues, ideas and proposals raised during the meeting. In addition to a brief summary of the scientific presentations delivered at the beginning of the meeting, the statement provides an overview of general considerations raised by delegations, a summary of key issues, ideas and proposals on the issues listed in paragraph 91 of resolution 61/222 and reflected in agenda item 5, and some concluding remarks by the Co-Chairpersons based on their assessment of the discussions.

Scientific presentations

4. Prior to commencing its deliberations, the Working Group heard the following scientific presentations: "Linking biodiversity in the deep sea to international management needs" by Peter J. Auster; "Assessment of assessments" by Elva Escobar; and a joint presentation, "Benthic biogeographic provinces for the high seas" and "The relevance of biogeographic classification in areas beyond national jurisdiction", by Les Watling and Elva Escobar.

5. The presentations highlighted the advancement of scientific knowledge and the importance of continuing the quest to better understand the changes and processes in the marine environment, particularly in the deep sea, as well as the functional role played by vulnerable marine ecosystems and the interconnectedness of the various ecosystems. The need to bridge the gap between policy demands and scientific research was also underlined. Moreover, the presentations reinforced science as the sound basis for conducting assessments, including environmental impact assessments. It was explained that recent progress in biogeographic classification, which aims at understanding species distribution and the ways in which species populations are connected, could support decision-making with regard to spatial planning and other conservation and management measures, such as marine protected areas.

General considerations

6. It was recognized that the oceans and their resources played a key role in sustaining life on the planet and provided goods and services that benefited humankind. However, the oceans faced numerous and diverse pressures from human activities and there was growing evidence of the degradation of the ocean ecosystems and their biodiversity, including as a result of climate change. Those issues raised serious concerns for the international community and there was an urgent need to address the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction.

7. Since the 2006 meeting of the Working Group, some progress had been made at the global level. In particular, the international community had focused on the impacts of unsustainable and destructive fishing practices, including through General Assembly resolution 61/105, which aimed to address the impacts of bottom fishing on vulnerable marine ecosystems, and through the work of the Food and Agriculture Organization of the United Nations (FAO) on the development of international guidelines for the management of deep-sea fisheries in the high seas and of an international legally binding regime on port State measures to combat illegal, unreported and unregulated fishing. In the context of the Convention on Biological Diversity, progress had also been made towards the development of scientific criteria for the identification of ecologically and biologically significant marine areas in need of protection, and on biogeographical classification systems. The Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area (ISBA/6/A/18, annex) and those under development by the International Seabed Authority on prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts in the Area were also a welcome development with regard to the protection and preservation of the marine environment and the biodiversity of the Area.

8. Nevertheless, it was recognized that further efforts were needed in order to conserve and sustainably use marine biodiversity beyond areas of national jurisdiction and achieve the goals set by the international community, including at the World Summit on Sustainable Development and the 2005 World Summit.

9. It was recalled that all issues related to the oceans are interrelated and should be addressed in an interdisciplinary, intersectoral and comprehensive manner. It was reiterated that the United Nations Convention on the Law of the Sea set out the legal framework within which all activities in the oceans and seas must be carried out and that any activities relating to marine biological diversity beyond areas of national jurisdiction should be conducted in a manner consistent with the principles of international law, including the rights of coastal States over their extended continental shelves. A number of other conventions and instruments complement the United Nations Convention on the Law of the Sea and together provide the current framework for activities relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. The question of whether the current framework was adequate was a core issue before the Working Group.

10. The essential role of science in underpinning further efforts in the conservation and sustainable use of marine biological diversity was emphasized. Broad support was expressed in favour of further scientific research to continue improving our knowledge of ocean ecosystems and their biodiversity, particularly in certain areas still largely unexplored. It was recognized that building sound and objective

scientific advice was essential. An assessment of the state of the marine environment, on a global scale, to support decision-making and adaptive management, was considered desirable.

11. The need for increased capacity-building for developing States was highlighted under all agenda items. Efforts in that regard should aim at improving, inter alia, the capacity to participate in marine scientific research and benefit from its results; the capacity to implement legal instruments and enforce their provisions; and the capacity to mitigate and adapt to the impacts of a number of anthropogenic activities, including climate change, in accordance with the principle of common but differentiated responsibilities and respective capabilities, and taking into account social and economic conditions and other relevant factors. The need for the transfer of relevant technologies was highlighted by many delegations.

The environmental impacts of anthropogenic activities on marine biological diversity beyond areas of national jurisdiction

12. It was recognized that while our knowledge of ocean ecosystems and the impacts of anthropogenic activities thereon is continuously improving, efforts should be enhanced to increase the understanding of marine ecosystems and biodiversity beyond areas of national jurisdiction and of the impacts of such activities, including cumulative impacts. It was also recognized that there was a need to ensure that all human activities in areas beyond national jurisdiction were conducted in a sustainable manner, on the basis of the best available science and the precautionary and ecosystem approaches.

13. Anthropogenic impacts on marine biodiversity beyond areas of national jurisdiction which were identified as requiring particular attention included the following: impacts caused by unsustainable fishing activities, including overfishing, overcapacity, by-catch, destructive fishing practices, illegal, unreported and unregulated fishing; non-participation and non-compliance with global and regional fisheries instruments; impacts of climate change, to which developing countries, especially the least developed and small island developing States, are particularly vulnerable; pollution from land and sea-based activities, including the dumping of toxic waste; the introduction of invasive alien species; the impacts of ocean noise; marine scientific research, including in relation to marine genetic resources; the exploration and exploitation of non-living resources; and the laying of pipelines. Attention was drawn to the progress that had been made and to ongoing activities within various forums to address some of those impacts.

14. Particular concerns were raised over new and emerging activities such as geo-engineering activities in the oceans. While recognizing the importance of environmentally sound climate change mitigation strategies, activities such as carbon sequestration and large-scale ocean iron fertilization raised particular concerns. The view was expressed that scientific understanding of the role of oceans in regulating climate as well as of the impacts of both climate change on the marine environment and the technologies used for climate mitigation purposes should be improved.

15. The urgent need to promote additional research and information sharing on new and emerging activities was expressed. At the same time, several delegations underlined that all activities on which insufficient scientific information was available should be regulated on the basis of the established principles of

international environmental law. Several delegations noted the need to enhance the implementation of existing instruments and to update the mandates of existing institutions to address new and emerging activities as a more desirable approach than developing new instruments and institutions.

16. It was pointed out that marine scientific research should be conducted in accordance with the United Nations Convention on the Law of the Sea and that the results of such research should be shared. It was also emphasized that scientific research activities should not cause damage to the marine environment and its resources. It was suggested that relevant intergovernmental organizations should work to that end, in particular the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Seabed Authority. Support was expressed for the promotion of voluntary codes of conduct and reference was made, in particular, to the InterRidge code developed by scientists to sustainably manage their research activities.

17. Several delegations supported the systematic application of environmental impact assessments in relation to existing and/or new activities in areas beyond national jurisdiction, drawing, as appropriate, on existing practices and models for conducting them. Some delegations also referred to strategic environmental assessments. Provisions in international instruments, including the United Nations Convention on the Law of the Sea and the Convention on Biological Diversity, that provide for environmental impact assessments should be fully implemented. Regional and sectoral approaches to the assessments should also be supported. Several delegations stressed the need for capacity-building for developing countries in order to fully implement existing provisions on the assessments. Other delegations drew attention to the challenges and difficulties in carrying them out in areas beyond national jurisdiction.

18. As sectoral and regional approaches did not provide for the assessment of cumulative impacts of activities, some delegations suggested the development of global guidelines on environmental impact assessments, including identifying vulnerable marine ecosystems and preventing significant impacts thereon, regulating currently unregulated activities and addressing cumulative impacts across sectors. The approach provided in resolution 61/105 in relation to the impacts of bottom fishing on vulnerable marine ecosystems was suggested by some delegations as a possible model. One delegation cautioned that prior impact assessments needed to be carefully balanced with the need to promote scientific research.

19. The need for regular scientific assessments of the state of the oceans on a global scale to support decision-making was underlined. It was noted that the report on the "assessment of assessments", the preparatory phase towards the establishment of a regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects, would provide a valuable overview of available information on assessments of anthropogenic impacts of activities beyond national jurisdiction, including their cumulative effects, and might usefully inform the policy debate. It was noted by several delegations that the review of the above-mentioned report by the General Assembly provided an opportunity for the Assembly to discuss whether there was a need to develop existing processes, and if necessary establish new ones to assess the status of the marine environment. It was suggested by some delegations that the roles of the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection and

the Intergovernmental Oceanographic Commission of UNESCO could also be enhanced in this area, for example to carry out targeted research for policymakers.

Coordination and cooperation among States as well as relevant intergovernmental organizations and bodies for the conservation and management of marine biological diversity beyond areas of national jurisdiction

20. Many delegations highlighted international cooperation and coordination as critical for addressing the challenges relating to the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. That was particularly the case in the light of the multiple threats thereto and the wide range of relevant global and regional instruments and international organizations and bodies with predominantly sectoral mandates.

21. Some delegations expressed concern that the lack of coordination between and among the various sectoral actors was a hindrance to effective governance of activities in areas beyond national jurisdiction. Current arrangements tended to focus on assessing and mitigating the environmental impacts of specific activities rather than on the marine environment as a whole. Some delegations suggested that, while challenging, developing integrated ocean policies may offer a more effective framework for the protection of the marine environment.

22. It was recognized that greater cooperation and coordination was required among sectors and agencies addressing various uses of the oceans and their resources and the protection and preservation of the marine environment. Cooperation and coordination at all levels and across all sectors was considered necessary for the full implementation of existing commitments. The importance of cooperation and coordination at the national level was particularly stressed.

23. The need for cooperation among States was also underlined. Several delegations emphasized that cross-sectoral capacity-building and technology transfer should be primary aspects of such cooperative efforts and highlighted their particular importance in the context of marine scientific research. Some delegations recognized that the Working Group provided an important forum for facilitating cooperation and coordination among States, as well as within and between global and regional organizations.

24. The importance of cooperation and coordination between intergovernmental organizations and bodies with varying competencies in areas beyond national jurisdiction was also emphasized, in particular cooperation among regional fisheries management organizations and between those organizations and non-fisheries organizations. Recent examples of such cooperation have included cooperation among the tuna regional fisheries management organizations and between the Commission for the Protection of the Marine Environment of the North-East Atlantic and the North-East Atlantic Fisheries Commission. The importance of cooperation between relevant United Nations agencies, funds and programmes through the UN-Oceans coordination mechanism was also mentioned. Some delegations expressed the view that the role and functions of UN-Oceans were not well understood, and that its visibility should be enhanced.

25. Different views were expressed on ways and means to facilitate cooperation and coordination. Several delegations supported the need for a new mechanism in the medium term, while suggesting for the short term practical measures for

addressing current gaps in coordination and organized cooperation between relevant global and regional organizations and bodies. Other delegations stressed that no new structures or mechanisms were needed and pointed out the steps undertaken to improve the existing framework to address various challenges, inter alia, by incorporating ecosystem and precautionary approaches and through joint meetings and initiatives of relevant organizations. These delegations also noted the increased costs and difficulties that would be inherent in creating new institutions or mechanisms. Some delegations were of the view that the establishment of new structures should be considered only after having exhausted all possibilities for improving the performance of existing institutions within their mandates.

The role of area-based management tools

26. Area-based management tools are essential and effective tools in the conservation and sustainable use of marine biological diversity, including in areas beyond national jurisdiction. Several delegations highlighted the importance of the tools, including marine protected areas, in the implementation of ecosystem and precautionary approaches to the management of human activities in the oceans and in addressing threats to marine ecosystems in a holistic and comprehensive manner. It was emphasized, however, that marine protected areas were only one of the several available tools and needed to be consistent with international law, as reflected in the United Nations Convention on the Law of the Sea.

27. Some delegations stressed the need to accelerate progress towards achieving the commitments of the Plan of Implementation of the World Summit on Sustainable Development (Johannesburg Plan of Implementation) to establish marine protected areas, including representative networks, by 2012. To that end, coastal States were encouraged to take measures to protect ecologically or biologically significant areas within areas of national jurisdiction. Several delegations called for efforts towards establishing marine protected areas in areas beyond national jurisdiction.

28. Reference was made to the progress that had been made to implement area-based management tools beyond areas of national jurisdiction, for example, by the International Maritime Organization (IMO), the International Seabed Authority, regional fisheries management organizations and regional environmental bodies. The importance of continued progress was underlined. Others noted that a more comprehensive and integrated approach to the establishment and management of area-based management tools was needed. Some emphasized the need for a multilateral mechanism to identify areas in need of protection in areas beyond national jurisdiction, and for a coordinated approach in the establishment of a network of marine protected areas in those areas.

29. Support was expressed for the scientific criteria for the identification of ecologically or biologically significant marine areas in need of protection developed in the context of the Convention on Biological Diversity. Several delegations suggested the need for further work on the application of those criteria and the use of biogeographical classification in respect of areas beyond national jurisdiction. It was considered that the General Assembly was the appropriate forum for such discussions, including consideration of issues in relation to the designation of applicable measures, the development of management objectives, monitoring and enforcement. Several delegations proposed building a register of areas that would meet the criteria. Some delegations also suggested the development of a joint

approach and guidance on the application of criteria for the identification of ecologically or biologically significant marine areas in need of protection beyond areas of national jurisdiction, in accordance with international law, as reflected in the United Nations Convention on the Law of the Sea. For example, that task could be carried out through the establishment of a liaison group comprised of relevant organizations, including FAO, IMO and the Convention on Biological Diversity, and facilitated by the United Nations.

30. Some delegations argued that progress needed to be made within existing regional and sectoral bodies towards the identification and designation of areas in need of protection. International organizations, including IMO, the International Seabed Authority, regional fisheries management organizations and regional seas conventions and environmental bodies all had an important role in that regard. Some support was also expressed for the establishment of pilot multi-purpose marine protected areas in areas beyond national jurisdiction, in accordance with international law and based on international consensus.

31. However, some delegations stressed that it was also important to recognize regional differences and the need to develop area-based management tools on a case-by-case basis, based on the best available scientific information, taking into account the purpose of the area-based management tool and the specific ecological and biological features of the area. The view was expressed that marine protected areas needed to have clearly delineated impact areas and a strong causal link between the management measures and the harm being addressed, and that enforcement measures needed to be consistent with international law, as reflected in the United Nations Convention on the Law of the Sea.

Genetic resources beyond areas of national jurisdiction

32. Delegations agreed that marine genetic resources provided important ecosystems goods and services to humankind. Therefore, ensuring the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction was essential.

33. The importance of promoting scientific research on marine genetic resources was recognized in the light of its benefits in terms of expanding knowledge of the biodiversity of the oceans, as well as in discovering new substances of benefit to the livelihood and well-being of humankind. Such research should be undertaken, in accordance with the provisions of the United Nations Convention on the Law of the Sea, on marine scientific research and on the basis of the precautionary approach, in particular to ensure that extraction activities are undertaken in a sustainable manner. Several delegations welcomed progress in the development of self-regulatory mechanisms by the scientific community, such as codes of conduct. Reference was also made to the possibility of using environmental impact assessments in relation to such activities, and developing international standards and guidelines to that end.

34. Some delegations suggested a number of areas for further research. They included the relationship between marine genetic resources and other resources; the level of activity actually occurring in respect of marine genetic resources in areas beyond national jurisdiction and the costs and risks involved; the marine biotechnology development process and the benefits arising from the commercialization of marine genetic resources; and the mapping of species and areas of potential interest for biotechnological application with a view to identifying

appropriate measures for conservation and sustainable use. A step-by-step approach was proposed for the development of scientific research for biotechnological applications, which included the establishment of mechanisms to improve inventories of biodiversity at different scales, the establishment of alliances among research groups and the analysis of the biological, human and economic potential of such resources, as well as the establishment of programmes to monitor the use of harvested resources.

35. The need for capacity-building for developing countries to participate in, and to benefit from, activities related to marine genetic resources beyond areas of national jurisdiction was underlined, as was the need to enhance the sharing of scientific information and results. In that regard, reference was made to the usefulness of the International Seabed Authority Endowment Fund.

36. The United Nations Convention on the Law of the Sea was recognized as the legal framework for all activities in the oceans and seas, including in respect of genetic resources beyond areas of national jurisdiction. In that regard, divergent views were expressed on the relevant legal regime on marine genetic resources beyond areas of national jurisdiction, in particular whether those marine genetic resources were part of the common heritage of mankind and therefore fell under the regime for the Area, or were part of the regime for the high seas.

37. Notwithstanding the above, some delegations were of the view that an elaborated regime was needed within the framework of the United Nations Convention on the Law of the Sea in relation to marine genetic resources beyond areas of national jurisdiction. In response, other delegations stated that a new international regime was not warranted. They noted that any such regime might impede scientific research and innovation and would be difficult to monitor and enforce. Several delegations highlighted the need for further consideration of intellectual property rights relating to marine genetic resources beyond areas of national jurisdiction.

38. In that context, some delegations proposed focusing on practical measures to enhance the conservation and sustainable use of marine genetic resources. It was proposed that such practical measures could address, among others, options for benefit-sharing. In that regard, several delegations expressed interest in considering a proposal to use the multilateral system developed under the International Treaty on Plant Genetic Resources for Food and Agriculture as a possible reference point for the discussions. While open to considering practical measures, others underlined the importance of also continuing the discussions on the legal regime on marine genetic resources beyond areas of national jurisdiction.

39. Several delegations expressed support for the continuation of discussions on marine genetic resources beyond areas of national jurisdiction under the authority of the General Assembly and within the framework of the United Nations Convention on the Law of the Sea. Reference was also made to the need to take into account the work under other relevant forums, such as the Convention on Biological Diversity, FAO, the World Intellectual Property Organization and the World Trade Organization.

Whether there is a governance or regulatory gap, and if so, how it should be addressed

40. Delegations generally recognized that there were implementation gaps in the international legal framework and emphasized the need for full and effective implementation of existing instruments, including available principles and tools, and for the strengthening of existing institutions and arrangements and enhanced cooperation and coordination. Specific issues raised in this context included improved flag State control, developing port State control and market measures, performance reviews of regional fisheries management organizations, increased coverage of regional arrangements in terms of geographical scope and species, as necessary, and the need to implement resolution 61/105 with respect to the impacts of bottom fishing on vulnerable marine ecosystems. A view was expressed that the mandate of regional fisheries management organizations should not extend beyond fisheries management.

41. In the above context, several delegations emphasized that capacity-building and technology transfer were at the centre of efforts to address implementation gaps, and encouraged the strengthening of capacity-building activities and highlighted the need to foster scientific cooperation and multidisciplinary research efforts and partnerships with developing States.

42. Divergent views were expressed on the existence of regulatory or governance gaps. Several delegations identified specific regulatory gaps, including gaps in the geographic coverage of legally binding instruments that provided for integrated management of the various ocean-based human activities, such as fisheries and biodiversity conservation, and gaps in addressing existing, new and emerging activities as well as threats that were currently unregulated or insufficiently regulated.

43. Several delegations identified governance gaps arising from the absence of institutions or mechanisms at the global, regional and subregional levels and from inadequate mandates of existing organizations and mechanisms. Specific governance gaps that were identified included the insufficient development of modern management tools and lack of coherent application of international principles, rules or standards; the need for further mechanisms to ensure cooperation and coordination within and across sectors, States and institutions; and the absence of any institution or mechanisms to assess and address cumulative environmental impacts of existing and emerging activities, review the implementation of management measures and ensure effective compliance and enforcement.

44. Several delegations favoured a "tool-box" approach that could provide a range of short-, medium- and long-term responses. It was suggested that progress could be achieved in the short term on various fronts, while discussions continued on more long-term comprehensive solutions.

45. Several delegations agreed that short-term measures included improving implementation and enforcement of existing instruments and working towards full participation in relevant international instruments. Delegations also emphasized the need to improve the capacity of developing States, including through transfer of technology and scientific cooperation, and the sharing of experience on the governance of marine affairs. Some delegations also referred to the need for increased funding for research in areas beyond national jurisdiction and for

coordinated scientific advice to provide existing regulatory bodies with a common scientific basis for decision-making.

46. Other short-term proposals that were suggested related to environmental impact assessments in areas beyond national jurisdiction; the establishment of marine protected areas in those areas; the sharing of information on marine scientific research; and the sharing of information and knowledge on marine genetic resources and the benefits that arise from their commercial use.

47. In regard to medium- or long-term approaches, divergent views were expressed. Several delegations considered that an implementation agreement under the United Nations Convention on the Law of the Sea was the most effective way to establish an integrated regime and address the multiplicity of challenges facing the protection and sustainable use of marine biodiversity in areas beyond national jurisdiction. Those delegations suggested that such an instrument was necessary to fill the governance and regulatory gaps that prevented the international community from adequately protecting marine biodiversity in areas beyond national jurisdiction. It was proposed that such an instrument would address currently unregulated activities, ensure consistent application of modern ocean governance principles in sectoral management regimes and provide for enhanced international cooperation.

48. Other delegations were not convinced of the need for an implementing agreement and expressed the view that activities in areas beyond national jurisdiction were either appropriately regulated under existing institutions and processes, or could be better regulated through the existing instruments and institutions and by enhancing cross-sectoral coordination and cooperation. These delegations emphasized that efforts should be focused on implementing and complying with existing instruments, enhancing existing mechanisms, improving cooperation and coordination and strengthening the capacity of developing States.

Other matters

49. Many delegations reiterated the central role of the General Assembly in discussing issues related to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. In that regard, broad support was expressed for the continuation of the Working Group in order to make further progress on those issues.

50. Different views were expressed, however, on whether the Working Group should be formalized or remain ad hoc and informal, on the frequency with which its meetings should occur and on whether it should be given the mandate to make recommendations to the Assembly.

51. It was emphasized that, should the Working Group be reconvened, its mandate should be more focused. Possible areas for future discussions were proposed, including the following: implementation and enforcement of existing instruments designed to protect the marine environment in areas beyond national jurisdiction, identification of issues to be addressed and means to develop an integrated approach; legal issues pertaining to marine biodiversity beyond areas of national jurisdiction; development of practical measures for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction; application of spatial management; the establishment of marine protected areas; the development

of guidance for the application of environmental impact assessments; practical options for access to and sharing of the benefits from genetic resources in and from areas beyond national jurisdiction; and addressing information gaps.

52. Some delegations raised the possible budgetary implications of holding a meeting of the Working Group in 2009. Other delegations noted that the question of holding a meeting would be considered by the Assembly at its sixty-third session. Some delegations also noted the need to renew the mandate of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea during the sixty-third session of the Assembly.

Concluding remarks by the Co-Chairpersons

53. Based on their assessment of the dynamic discussions that have taken place during the meeting and the progress achieved, the Co-Chairpersons consider that there is a need for ongoing consideration by the General Assembly of the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction, and in particular within the framework of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction.

54. During the meeting a number of proposals were made to address the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction in the short, medium and longer term. Based on the discussions, the Assembly may wish to consider referring the following issues to the Working Group:

(a) More effective implementation and enforcement of existing instruments relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction;

(b) The strengthening of cooperation and coordination at all levels and across all sectors, including enhanced cooperation in capacity-building for developing countries;

(c) The development and implementation of effective environmental impact assessments as a tool for improving ocean management;

(d) Development and use of area-based management tools, including designation, management, monitoring and enforcement, consistent with the United Nations Convention on the Law of the Sea;

(e) Practical measures to address the conservation and sustainable use of marine genetic resources in areas beyond national jurisdiction, without prejudice to ongoing discussions on the relevant legal regime on marine genetic resources beyond areas of national jurisdiction;

(f) Continuing and enhanced marine scientific research in relation to marine biological diversity beyond areas of national jurisdiction.